

**City of Auburn
Public Defense Services
Request for Proposals**

RFP Schedule

The City reserves the right to change the RFP Schedule as needed.

Request for Proposals Issued: March 4, 2013

Due Date for Proposals: April 5, 2013. Must be received by 5:00 p.m.

Selection of Top Firms for Interviews: April 17, 2013

Interview Top Firms: April 30, 2013

Notification of Firm Chosen: May 17, 2013

Contract Approved by Council: June 3, 2013

Contract Period: July 1, 2013 – June 30, 2014

INTRODUCTION AND OVERVIEW

Purpose: The City of Auburn is seeking proposals from law firms to provide effective counsel to indigent defendants charged in the City of Auburn with misdemeanor and gross misdemeanor crimes. The City currently contracts with the King County District Court for the provision of court and probation services.

Background: The City of Auburn is responsible for providing indigent defense services to persons charged with misdemeanor and gross misdemeanor crimes who meet certain financial eligibility criteria. Auburn currently contracts with one law firm to provide primary public defense services, and with several individual attorneys to provide conflict public defense services. Auburn will contract directly with a single law firm to handle approximately 1600 case credits as the primary public defender (Primary Defender) for the City. The City will also enter into a contract with one (1) or more law firms (Conflict Defender) to handle cases where the Primary Defender has a conflict (estimated to be 50 case credits). Please see Appendix A and B on Page 19 and Page 20 for tables showing historical workload information.

Period of Performance: The period of performance for the Primary and Conflict Defender contracts will be from July 1, 2013 through June 30, 2014. Prior to the conclusion of the contract period, the City may issue a Request for Proposals for public defense services.

Funding Available: This is a competitive process. Up to \$450,000 annually is available to fund a Contract with the Primary Defender to handle an estimated total of one thousand, six hundred (1600) credits, including arraignment and intake calendars (see Page 10 “Scope of Services” section for further detail). Up to \$267,500 annually is available to fund the remainder of the 2013 contract with the Primary Defender to handle a caseload of eight hundred (800) credits.

These figures use the City’s caseload standard of four hundred (400) assigned credits per attorney annually. Case credits are defined as set forth in Appendix C.

Firms may submit proposals either at or less than the amount of funding available. Proposals that exceed the available funding limits will not be considered.

The City is giving these dollar and workload figures to provide a basis for a comparison between the RFP responses. Actual funding for these contracts will be determined during contract negotiations and will be dependent on the projected workload for the remainder of 2013 and the amount of funds provided in the 2013 City budget. Funds will be prorated in 2013 to reflect the six (6) month contract period (the new contracts will go into effect July 1, 2013).

PROPOSAL PROCESS

RFP Coordinator

The RFP Coordinator is:

Aaron Barber

Compensation & Employee Relations Manager

25 W. Main Street

Auburn, WA 98001

Telephone: 253-804-5093

Email: abarber@auburnwa.gov

Fax: (253) 804-3116

Communications

All Proposer communications concerning this RFP should be directed in writing to Aaron Barber, the RFP Coordinator. Unless authorized by the RFP Coordinator, no other City official or City employee is empowered to speak for the City with respect to this RFP. Proposers who seek to obtain information, clarification, or interpretation from other City officials or employees are advised that such material is used at the Proposer's own risk, and the City will not be bound by any such representations. Contact regarding this RFP process with a City employee other than the RFP Coordinator or an individual specifically approved by the RFP Coordinator in writing, may be grounds for rejection of the Proposer's proposal.

Addenda

Proposers who wish to receive addenda to this RFP (if any), answers to questions posed by other proposers, and related information, must submit a Letter of Intent to the RFP Coordinator **no later than 5:00 p.m. March 29, 2013.**

Proposal Submittal

1. Proposals must be received no later than the date and time given in this RFP or as revised by Addenda.
2. All pages must be numbered sequentially in 12 point font. Questions must be answered in the order presented in the RFP. Proposals should be prepared simply and economically, providing a straight forward, concise description of provider capabilities to satisfy the requirements of the request. Emphasis should be on completeness and clarity of content.
3. One (1) complete copy of the proposal, plus the original must be submitted. Proposals should be double-sided.
4. Additionally, an electronic copy of the proposal must be submitted on disc(s).
5. Responses should be in a sealed box or envelope clearly marked with the RFP title "Public Defense Services RFP" and addressed to the RFP Coordinator. If RFPs are not clearly marked, the Consultant bears all risks of the Proposal not being properly delivered.

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6. The RFP response may be hand-delivered or must otherwise be received by the submittal deadline at the address provided below.

7. The Proposer has full responsibility to ensure the proposal arrives at the address provided within the deadline. The City assumes no responsibility for delays caused by the United States Postal Service or any other delivery service. Postmarking by the due date will not substitute for actual receipt of response by the date due. Responses arriving after the deadline may be returned, unopened, to the Proposer, or may simply be declared non-responsive and not subject to evaluation, or may be found to have been received in accordance to the solicitation requirements, at the sole determination of the City.

8. Proposals shall be signed by an official authorized to legally bind the Proposer and any Sub-Proposers.

9. The Proposer may attach any brochures and materials that will assist the City in its evaluation. The original and one (1) copy, and the electronic copy of each proposal must be submitted to:

Auburn City Human Resources/Risk Management Department
ATTN: Aaron Barber
25 W. Main Street
Auburn, WA 98001

Proposals may be mailed or delivered in person but must be received at the above address **no later than 5:00 p.m. Friday, April 12, 2013**. Faxed, emailed, or telephone proposals will not be accepted.

Cost of Preparing Proposals

The City will not be liable for any costs incurred by the Proposers in the preparation and presentation of proposals submitted in response to this RFP including, but not limited to, costs incurred in connection with the Proposer selection process.

Local and State Requirements

The Proposers selected as a result of this RFP must have a valid City of Auburn Business License prior to final execution of the Contract. All costs for any licenses and permits shall be borne by the Proposers and not be charged separately to the City. The Proposers selected as a result of this RFP must be authorized to do business in the State of Washington prior to final execution of the Contract and shall be required to provide a Washington State Unified Business Identifier (UBI) number. Information on obtaining authorization to do business in the State of Washington should be addressed to the Washington State Department of Revenue at 1-800-647-7706. The laws of the State of Washington shall govern the contract executed between the selected Proposers and the City, and any interpretations or constructions. Further, the place of performance and transaction of business shall be the City of Auburn, State of Washington; in the event of litigation, the exclusive venue and place of jurisdiction shall be the Superior Court for King County, Washington.

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General Guidelines and Requirements

- This RFP should be interpreted in a manner consistent with the Rules of Professional Conduct for attorneys, and the constitutions and laws of the United States, Washington State, and the City of Auburn. Nothing should be read to limit the representation or scope of duties of counsel with respect to the Rules of Professional Conduct.
- It is the Proposer's responsibility to carefully review all specifications, requirements, General Conditions, insurance requirements, and other requirements herein. Submittal of a Proposal is conclusive evidence that the Proposer understands all requirements and specifications without exception. Consultants must comply with all Federal, State, and City laws, ordinances, and rules.
- The City is under no obligation to accept any exceptions requested or marked by the Proposer to the RFP and the City may choose to disregard any such exceptions.
- All provisions of this RFP will become part of the Contract and all materials submitted in response to this RFP will become the property of the City upon delivery to the RFP Coordinator. The Proposer's written response to the RFP may also become a part of the Contract. The City reserves the right to reject items in the response to the RFP.
- The City reserves the right to:
 - Revise the RFP schedule;
 - Revise the RFP and/or to issue amendments to the RFP;
 - Reject, cancel, and/or reissue the RFP in whole or in part if it is deemed in the City's best interests, with no penalty, prior to the execution of a contract;
 - Refrain from contracting with any and all firms and/or to contract with a qualified firm at a date later than the date specified in this RFP.
 - Waive any formality in Proposals received and to waive immaterial defects and minor irregularities in Proposals.
 - Correct arithmetical errors in a Proposal,
 - Re-advertise for a Proposal,

The release of the RFP does not compel the City to enter into any contract pursuant to the RFP.

- Prior to the proposal submittal closing date and time established for this RFP, Proposers may withdraw or modify their Response any time by a dated written request, signed in the same manner and by the same person who signed the Proposal. No change to the original Proposal shall be made after the Proposal closing date and time, but shall be subject to clarification and negotiation as discussed hereafter (see, "Selection Process"). Any firm that withdraws from this RFP process understands that its written Proposal to the RFP will not be returned.
- Clarification of responses: As part of the evaluation process, and at the discretion of City staff and/or the review panel, firms may be asked to clarify specific points in their respective

responses. The City reserves the right to request oral presentations from applicants. The City's requests for a clarification of a firm's response shall not be construed as giving that firm the right to amend its response or to provide additional written materials, unless expressly requested by the City and/or the review panel.

- Any contract resulting from this RFP will be between the City of Auburn and the firm. It is required that the Selected Firm(s) will provide all services and will not subcontract or otherwise assign any of the work awarded through this contract without formal, written authorization from the contract administrator. This does not apply to the use of expert services.
- The Selected Firm(s) will be required to maintain administrative books, records, documents, and other evidence directly related to performance of the work and financial records in accordance with generally acceptable accounting procedures. Such disclosure shall not include information which falls within attorney/client privilege. All such records must be retained for a period of six (6) years after completion of work. The City of Auburn, or any of its duly authorized representatives, shall have access to any such books, records, and documents for inspection, audit, and copying during the contract and retention periods.
- Firms participating in this RFP shall not coordinate or discuss their proposals to provide legal services to the City of Auburn. Federal and Washington State antitrust laws make it per se illegal for such competitors to agree to fix prices, reduce output, allocate customers, or rig proposals. See 15 U.S.C. § 1; RCW 19.86.030. Any agreement to, for example, coordinate proposals, refuse to propose, or establish the rates at which services would be offered, would be a per se violation of the antitrust laws and could subject the participants to criminal penalties. Any firms participating in such activities shall be disqualified from the RFP process. See *Federal Trade Commission v. Superior Court Trial Lawyers Association*, 493 U.S. 411 (1990) (Antitrust laws prohibit lawyers from colluding as to the amount they would charge the District of Columbia government for their services.)
- All Proposals and materials submitted under this RFP shall be considered public documents at the time of the proposal deadline and may be reviewed by appointment by anyone requesting to do. If a Proposer considers any portion of his/her Proposal to be protected under Washington State law, the Proposer shall clearly identify each such portion with words such as "CONFIDENTIAL," "PROPRIETARY" or "BUSINESS SECRET." If a request is made for disclosure of such portion, the City will notify the Proposer of the request and allow the Proposer ten (10) calendar days to obtain an injunction preventing the City from disclosing the documents. If the Proposer fails or neglects to take such action within said period, the City will release the portion of the Proposal deemed subject to disclosure. By submitting a Proposal, the Proposer assents to the procedure outlined in this paragraph and shall have no claim against the City on account of actions taken under such procedure.

Invoicing and Payment Schedule

Invoices may be submitted no more than monthly and no less than quarterly after the Work has been performed or expenses incurred. Supporting documentation is required for reimbursement

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of all expenses related to the Scope of Work. Supporting documentation includes, but is not limited to, paid invoices to vendors, paid expense claim forms, canceled checks, etc. The documentation must also include the dates of service to ensure that the work being paid for is for the current period that work was performed. Payment shall be considered timely if mailed by the City to the Proposer within thirty (30) calendar days after receipt of properly completed Invoice. Payment shall be sent to the address designated by the Proposer on the Invoice. The City may, at its sole discretion, withhold payments claimed by the Proposer for services rendered if the City has determined that the Proposer has failed to satisfactorily comply with any term or condition of this Contract. The City does not incur liability for any payment to the Proposer that is subsequently disallowed by any Federal, State, or local regulations. The City reserves the right to withhold or recoup payment for work or activities determined by funding agencies to be ineligible for reimbursement.

Irregular Proposals

A Proposal will be considered irregular and non-responsive, and will be rejected if:

- The Proposal does not constitute a definite and qualified offer to meet the material terms of the RFP; or
- The Proposer has been disqualified or otherwise debarred from doing business with the City of Auburn; or
- A Proposer is a member of a Joint Venture or partnership and the Joint Venture or partnership submits a Proposal for the same Project (in such an instance, both Proposals may be rejected)
- Sufficient evidence of collusion exists with any other Proposer or potential Proposer. Participants in collusion will be restricted from submitting further Proposals.
- A Proposer fails to acknowledge addenda that the City has issued for inclusion to the RFP proposal.

Disqualification of Proposers

At the sole discretion of the City, a Proposer may be deemed not responsible and its Proposal rejected and the Proposer disqualified if:

- More than one Proposal is submitted for the same Project from a Proposer under the same or different names; or
- A Proposer, in the opinion of the City, is not qualified for the Work specified; or
- An unsatisfactory performance record exists as shown by past or current Work for the City, or for others, as judged from the standpoint of conduct of the Work, environmental or safety compliance records, workmanship, progress, affirmative action, or equal employment opportunity practices; or

- There is uncompleted work (City or otherwise) which might hinder or prevent the prompt completion of the Work; or
- The Proposer failed to settle bills for labor or materials on past or current contracts; or
- The Proposer has failed to complete a public contract or has been convicted of a crime arising from a previous public contract; or
- The Proposer is unable, financially or otherwise, to perform the Work; or
- A Proposer is not authorized to do business in the State of Washington; or
- The Apparent Successful Proposer fails to have or take efforts to immediately obtain a City of Auburn Business License; or
- For any other reason deemed proper by the City.

SELECTION PROCESS

Proposal Review Process

A review panel will evaluate the Proposals submitted. Proposals will be rated based upon the criteria and requirements contained in this RFP. If additional information or clarification is requested by the panel, City staff may contact the law firms to obtain this information. The review panel may also choose to interview one (1) or more of the law firms. The review panel will then make a recommendation to the Mayor who will select the Primary Defender agencies, subject to approval of a contract by the City Council. Staff may conduct telephone interviews as needed to clarify information provided in a firm's response.

Most Favorable Terms

The City reserves the right to make an award without further discussion of the proposal submitted. Therefore, the proposal should be submitted on the most favorable terms. If awarded, firms should be prepared to accept the terms they proposed for incorporation into a contract resulting from this RFP.

Selection Criteria

Proposals will be rated according to criteria specifically described and weighted for the Primary Defenders under "Proposal Requirements" beginning on page 16. It includes the following areas:

Criteria

Responsiveness to Proposal Requirements

Experience in Providing Defense Services and Contract Performance

Financial Management

Proposed Delivery of Services

Proposed Services and Cost

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References

Professional References

Proposers shall provide a list of professional references with full contact information. References shall be relevant to the Scope of Work for the Project, and experience in similar jobs or projects. The City reserves the right to contact references other than those provided by the Proposer.

Contract Negotiations

The City intends to complete contract negotiations with the Firms by June 5, 2013. The City Council must approve the contracts prior to execution. The City intends to provide all contracts and appropriate legislation to City Council by June 17, 2013. In the event the City Council fails to approve the appropriate legislation by June 27, 2013, or at any other time, the City reserves the right to cancel the RFP process or postpone the process until such approval is obtained.

The City may attempt to negotiate a contract with the Firm or Firms selected on terms that it determines to be fair and reasonable and in the best interest of the City, including the best interests of the population served by the contract. If the City is unable to negotiate such a contract with any one (1) or more of the firms first selected on terms that it determines to be fair and reasonable and in the best interest of the City, including the best interests of the population served by the contract, negotiations with any one (1) or more of the firms may be terminated or suspended. In the event of a negotiation impasse with any firm, in accordance with the procedures set forth in this RFP, the City reserves the right without penalty and at its sole discretion to:

- Reject the Proposer's proposal and select the next preferred Proposer;
- Take no further action to continue the award and/or execution of contracts under this RFP;
- Reissue the RFP with any changes the City deems appropriate; or,
- Take any other action.

If the City decides to continue the process of selection, negotiations shall continue with a qualified firm or firms in accordance with this section at the sole discretion of the City until a Contract is reached with one (1) or more qualified firms. The process may be repeated until a contract is reached.

No assignment or transfer of the Contract or of any interest in the Contract shall be made by the Public Defender without the prior written consent of the City.

Insurance Requirements

During the term of the Contract, the Public Defender shall have professional and general liability coverage of not less than One Million Dollars (\$1,000,000). Written proof of the insurance policy for calendar year 2013 shall be filed with the City at the inception of this contract and again no later than January 1, 2014, for calendar year 2014. Failure to present timely proof of insurance will be grounds for immediate termination of this contract.

The Public Defender shall secure and maintain a policy of professional liability insurance. If the claim is in excess of the policy limits, the awarded firm shall indemnify the City of Auburn from any liability. If, for any reason, the Public Defender loses its professional liability coverage, the Public Defender must immediately notify the Director of Human Resources/Risk Management.

If professional liability coverage is to be provided on a claims-made basis, the Public Defender shall warrant that any policy retroactive date precedes the effective date of the Agreement. In addition, continuous coverage must be maintained throughout the Agreement and for one year beyond the completion of the Agreement, or the Public Defender shall purchase an extended discovery period for not less than one (1) year from the completion of work.

The Public Defender will agree that should any claims be submitted or filed against him/her/the firm which are not covered by professional and/or general liability insurance, the Public Defender may be sued to recover amounts of all claims together with any attorneys' fees and costs.

The Public Defender shall indemnify, defend and hold the City, its elected officials, officers, employees, agents, and/or volunteers harmless from any and all claims, losses, and/or liability, including all costs and attorney's fees, including claims arising by reason of accident, injury, and/or death caused to persons or property of any kind occurring by the fault or neglect of the Public Defender, and its legal associates or employees, and occurring without fault or neglect of the City.

SCOPE OF SERVICES

General Description: Pursuant to Chapter 10.101.05 and 10.101.030 of the RCW, the Primary Defender will provide legal representation to indigent defendants charged with misdemeanor and gross misdemeanor crimes in the City of Auburn. The City has adopted standards for the delivery of public defense services. The standards endorsed by the Washington State Bar Association for the provision of public defense services may serve as guidelines. Representation will be provided for each of these defendants from the initial appearance through the end of the case (including trial, sentencing, post-conviction review, and any appeals to Superior Court). The Primary Defender will also staff the calendars for in-custody and out-of-custody arraignment (intake) hearings, including meeting with indigent defendants who are in-custody in the SCORE Jail Facility.

The RFP is available on the City's website www.auburnwa.gov. Or may be obtained from City of Auburn Human Resources, 25 West Main Street, Auburn, WA, 98003, (253) 931-3040.

Screening: Determination of indigency for eligibility for appointed counsel for this contract will be determined by the Auburn Human Resources/Risk Management Department staff pursuant to RCW 10.101.010 and 10.101.020.

The City will be responsible for the costs and operation of the screening process. Should the Primary Defender determine that a defendant is not eligible for assigned counsel, the firm will so inform the court.

Reporting: The Primary Defenders will be required to provide the City with monthly electronic reports. Cases must be administratively closed within thirty (30) days after the last hearing on the case. These reports must contain:

- Defendant's name
- Cause number(s)
- Criminal charges filed
- Whether the Cause number was conflicted out or a private attorney was hired
- Attorney(s) name(s) and/or BAR number
- Date case assigned
- Date case closed
- Summary information on the disposition of cases contained in the monthly report

The City of Auburn, or any of its duly authorized representatives, shall have access to any such books, records and documents for inspection, audit, and/or copying. The report is due on or before the fifth (5th) day of the following month for services of the prior month. Payment may be withheld if reports are not submitted on time.

Attorney Conflict: In the event the Primary Defender must withdraw from a case because of a conflict of interest, the Conflict Defender shall be responsible for handling the case. In the event one (1) Conflict Defender also has a conflict, then a contract Conflict Defender not associated with the first Conflict Defender will be appointed at the City's expense. Each agency shall be responsible for checking for conflicts and identifying if a conflict exists for cases referred to them within three (3) working days. Each agency shall have a written policy which explains how they define conflict cases. Each agency shall perform a conflicts check before any substantial work is done on the case. No payment shall be made for work done on cases which are subsequently identified as conflicts with the exception of cases in which the client obtains a new attorney at his own expense or through a request to the Court; or for other extraordinary circumstances approved by the City including, but not limited to, information or evidence which the defense counsel did not have reason to know at the time of the initial conflicts check.

Expert Services: In the event the services of an expert is needed, the attorney shall make a request for approval to the Court. If the Court approves the request, the expert fees shall be paid by King County District Court.

Caseload Standards: The City's caseload standard is four hundred (400) assigned case credits per attorney annually. Case credits are defined as set forth in Appendix C: Primary and Conflict Defenders are solely responsible for ensuring that they do not exceed the caseload limits, and are further solely responsible for filing the certifications required by Washington Supreme Court

Order No. 25700-A-1004 and providing a copy of such certification, with proof of filing, to the City.

Primary Defender – Scope Of Services

Estimated Workload

The Primary Defender will provide a minimum of five (5) attorneys for an estimated workload of one thousand and (1600) credits, as well as handle various calendars. Calendar schedules are subject to change by the Court and may be refined during contract negotiations. All numbers are on an annual basis.

The Primary Defender shall provide legal advice twenty-four (24) hours each day, seven (7) days per week via beeper/pager/cell phone access for critical stage advice to defendants during the course of police investigations and/or arrests.

Based on services provided in 2012, the Primary Defender is expected to staff the following Calendars (A copy of the typical monthly calendar is attached):

In-custody 1st appearances - An attorney must appear at the District Court in Auburn, as well as in the Court Room in the SCORE Jail Facility – five (5) days per week (Monday – Friday). Services provided at this calendar shall include representation of all otherwise unrepresented defendants.

In-custody bench warrants – one (1) day per week (Friday). Services provided at this calendar shall include representation of all otherwise unrepresented defendants in-custody for an outstanding bench warrant.

Out-of-custody intake (arraignment) – The intake calendar staffing is one (1) day per week (Thursdays).

MINIMUM QUALIFICATIONS

All proposals must include the following information as set out in the next three (3) sections:

- Minimum Qualifications
- Proposal Requirements, and
- Required Attachments.

Proposal Cover Page:

- Name of firm
- Address and Phone
- Firm contact information if different than above

Minimum Qualifications: The following requirements must be addressed in the proposal:

- The law firm must be able to provide the names and BAR numbers of the individuals who will be providing public defense and their areas of responsibility.
- The law firm must be able to demonstrate that each attorney they have practiced criminal defense law in Washington State for at least five (5) years.
- Firms submitting proposals to be the Primary Defender must also be able to show they represented clients in at least three thousand (3,000) assigned criminal cases (excluding defendants represented at a first appearance calendar) in 2012.
- Firms must have the ability to simultaneously staff multiple courtrooms with a minimum of one qualified attorney in each courtroom

Licensing and Prior Experience: The following qualifications are required for attorneys performing under this contract. These qualifications should be acknowledged and incorporated into the proposal under this RFP.

- Every attorney providing indigent defense services must be a licensed member of the Washington State Bar and be a member in good standing of the Bar. The firm may employ interns pursuant to Admission to Practice Rule (APR) 9. No more than five percent (5%) of the cases handled by the firm may be assigned to Rule 9 interns.
- Adherence to applicable American Bar Association (ABA), Washington State Bar Association (WSBA), the City of Auburn's Standards for Indigence Defense adopted by City Resolution No. 4849, which includes Washington State Supreme Court Order No. 25700-A-1004, establishing standards for the provision of public defense services.
- The firm's attorneys who supervise the misdemeanor attorneys must have at least five (5) years of criminal defense experience in superior, district, and/or municipal courts in Washington State.
- No attorney may provide services under this contract if that attorney has been removed from representation in a case for failure to perform basic services necessary to the case or to the client, or in any manner has been found to be ineffective on appeal by either an ethics panel or by an appellate court.

PROPOSAL REQUIREMENTS

Proposals will be rated according to the following criteria. Firms should address the criteria in their proposals as delineated in the following sections.

PRIMARY DEFENDER CRITERIA

Maximum Points

Responsiveness to Proposal Requirements	5
Experience in Providing Defense Services and Contract Performance	20
Financial Management	10
Proposed Delivery of Services	15
Proposed Services and Cost	45
References	5
Total Points	100

Instructions

Please restate the question followed by your response. Contact Aaron Barber for a Microsoft Word template, if needed.

Responsiveness to Proposal Requirements

Criteria for Review Panel points:

1. Response meets the minimum qualifications.
2. All questions are answered.
3. Agency responses are thorough and requested examples are included.
4. All required attachments are complete and included with the agency proposal.

Experience in Providing Defense Services & Contract Performance

General Overview/ Experience in Providing Public Defense Services

1. Describe your firm's management structure.
2. Does your firm practice in areas other than criminal defense?
3. How long has your firm been in existence? How many years has it practiced criminal defense law?
4. Has your firm handled indigent clients? Involving what type of cases?
5. How many courts does your firm currently represent defendants in? Please specify which courts and approximately how many cases you represented clients in each court in 2012.
6. What type of cases (felony, misdemeanor, etc.) did your firm handle in 2011 and 2012?
7. How many cases (by type) did your firm handle in 2011 and 2012? How many criminal trials and how many appeals did your firm handle in 2011 and 2012?
8. How many criminal defense attorneys (FTE) are currently employed by your firm?
9. How many other staff (FTE) are currently employed by your firm?
10. Does anyone employed by your firm have any conflicts of interest with any Auburn Municipal Court judge or staff?

Contract Performance

1. Please include a copy of any city or county contract compliance reviews or any other audits completed in 2009, 2010, 2011, or 2012. Please note if there are any that will be undertaken in 2013 and whether the audit was initiated by your firm or by another agency.
2. Has your firm ever had a contract that was terminated partly or wholly for performance?

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In the last five (5) years, has your firm been placed on corrective action? If yes, please identify the contract involved and describe the reason for the termination or corrective action and the outcome.

3. In the last five (5) years, has your firm had an attorney who has been removed from representation in a case by order of the court for any reason other than conflict of interest or irreconcilable differences with a client, or has in any manner been found to be ineffective in the representation of his or her clients by an ethics panel or by any court? If yes, please list the incidents and explain the circumstances and any corrective action taken.

4. Describe any past instances in the last five (5) years when an attorney of your firm has been sanctioned by any court for any reason.

5. Describe any claims settled without filing or filed against any attorney in your firm or your firm during the last five (5) years. The claim must be related to the performance of work done for the firm.

6. Explain the process your firm has in place for dealing with complaints made to the State Bar Association regarding attorney professional misconduct.

7. For the last five (5) years, please describe each complaint, claim, or case in which an attorney associated with your firm for which the Bar Association opened an investigation regarding any violation of the Rules of Profession Conduct (RPC). Please state the outcome of the complaint. Describe any corrective action taken by your firm as a result of a disciplinary finding and sanction.

Financial Management

1. Funding awarded through this RFP process may only be used to serve financially indigent persons charged with misdemeanor offenses in the City of Auburn. It may not be used to fund any other cases or projects of the law firm. Please describe how your firm would track and manage revenues and expenditures associated with this contract to ensure that funds are used solely for expenses (including prorated overhead) directly related to the cases that will be assigned to your attorneys through this contract. Please include a report showing the various cost centers for both revenue and expenditures, and how expenses are prorated across these cost centers.

2. Please describe your firm's ability to meet program expenses in advance of reimbursement.

3. Please describe your firm's accounting system.

4. What types of internal financial controls are in place? When were these controls established?

5. Please provide your firm's annual financial statements for 2009, 2010, 2011, and 2012, audits of the financial statements by a certified public accountant, and a copy of the accompanying management letters. If reserve accounts are not specifically called out in the financial statements, please include a copy of the year-end reports on reserve accounts for the last three (3) years.

6. In the financial audit management letters for fiscal years 2010 and 2011, were any significant deficiencies or material weaknesses identified? If so, what were they? Have they ever been identified as issues in the previous five (5) years?

7. Are there any pending lawsuits that have been filed against your firm for any reason? If so, what is the amount of damages sought in the lawsuit? In the event of an adverse judgment, how

would your firm pay the damages? How much would be covered by an insurance policy and how much would the firm pay out of pocket?

9. Does your firm have a reserve fund or a fund balance policy? If so, what is the amount and what percentage of your total operating budget is your reserve fund? What sorts of liabilities has your firm reserved funds for (e.g. ensuring there are sufficient funds to complete cases that are assigned but not finished at the end of the year)?

Proposed Delivery of Services

The City is seeking innovative responses on how to best provide defense services. We want to know how you would improve how defense services are delivered to our defendants. The following questions are intended to help the City understand how you would propose delivering services. Your responses should be consistent with the costs shown in the next section. In your response, please address the following points:

1. Please describe your firm's capacity to handle the estimated annual caseload and required services.

2. High quality defense is very important to the City. Describe how your firm would propose to deliver high quality indigent defense services.

a. Auburn's caseload standard maximum is four hundred (400) assigned misdemeanor case credits per attorney annually. How would you propose monitoring each attorney's caseload? How would you propose to use support staff (investigator, paralegal, social worker, and/or clerical staff)? If your proposed standards vary from Auburn's standard, please explain what effect it will have on the level and type of services provided.

b. Would attorneys be dedicated exclusively to defending cases in the City of Auburn or would they also handle cases in other courts at the same time? If they would also concurrently handle cases in other courts, how would the Auburn misdemeanor cases be covered if the attorney was in extensive litigation on a case in another court?

c. As much as is possible, the City would like to have the same attorney represent the defendant at the first pretrial hearing (after arraignment/intake) to the end (including probation violations). How would you propose accomplishing this?

d. Punctuality for court hearings is very important to the City. Does your firm have a proven track record in this area? How would your firm balance the need to provide consistent representation to your client with the need to cover hearings in multiple courtrooms and/or at the SCORE Facility?

e. How would you ensure that the attorney assigned to the case receives discovery as soon after the initial appearance as possible?

f. In providing indigent defense services, it is important to resolve cases in an efficient and timely manner (particularly when your clients are in-custody) while at the same time protecting the due process rights of your clients. How would you provide services to ensure that these goals were met? What services would you provide to enhance the timely resolution of cases?

g. What level of attorney supervision do you propose and why? Would the supervisory attorneys be expected to carry an active caseload and if so, what percentage of their time would be spent City of Auburn

managing their caseload? What is the minimum number of years of criminal law experience the supervising attorneys would have?

h. Would you assign attorneys to work for the City permanently or would the attorneys rotate to other courts? How long would attorneys and supervisors be assigned to handle cases at the City before rotating to another assignment?

i. How will your firm cover absences if an attorney is unavailable (e.g. on sick leave or vacation)?

3. The quality of attorneys assigned to handle the defense cases is very important to the City.

a. Describe the qualifications and experience of the attorneys your firm would assign to handle Auburn's indigent defense cases. Please describe the trial and appellate experience as well as any specialty court experience. What is the general mix of experience you would propose?

b. Please state if you would use Rule 9 interns and, if so, describe how you would propose using them. Please include how many Rule 9 interns you would propose using and how they would be supervised.

c. What type and how much training would be provided to the attorneys? What training around mental illness will you provide for your staff?

d. Do you conduct annual performance evaluations of the attorneys at your firm? Do you have performance standards for attorneys that you use when conducting the evaluations?

4. Making effective use of support staff is important to the City. Describe how staff at your firm would be used to support the attorneys.

a. What ratio of support staff (investigator, paralegal, and clerical staff) to attorney would you propose and why? Please specify for each type of support staff you would propose using.

b. What is the relationship between the caseload standard and your firm's use of support staff?

c. If an investigation is required, at what point in the case process would you assign an investigator to start working on the case?

d. Do you conduct annual performance evaluations of the support staff at your firm? Do you have performance standards for support staff that you use when conducting the evaluations?

5. Client contact and client service is very important to the City. It is expected that attorneys will initiate contact with their clients as soon as possible after assignment of the case. At a minimum, attorneys should meet with their clients prior to each scheduled court hearing so that the attorney and client are prepared to proceed at that hearing.

a. After an attorney is assigned a case, when and how would the first attorney-client contact take place? In your response, distinguish between in-custody and out-of-custody clients.

b. What steps would you take to ensure that out-of-custody clients appear for their court dates? Does your firm call out-of-custody clients to remind them of their court dates? Has your firm ever developed a system to notify and encourage clients to appear in court? If so, describe the system and its effectiveness.

c. What systems does your firm have in place to ensure that clients can easily contact their attorneys (phone systems, pagers, email, etc...)? When clients call your firm, are they able to speak with a live person if they desire or is the system completely automated?

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- d. What is your firm's policy on returning client calls? Do you have any minimum standards or expectations for attorneys in returning client calls?
- e. What is your firm's capacity for working with non-English speaking clients? Explain in detail your firm's experience in representing non-English speaking clients.
- f. Does your firm systematically solicit feedback from clients? If so, how does your firm obtain this feedback? How is the feedback shared with staff at your firm?
- g. What is your firm's system for resolving client complaints about an attorney's performance? Explain in detail your firm's process for resolving client complaints.
- h. How do you measure success for your clients?
- i. If a client had multiple matters either within the City of Auburn or in other jurisdictions (e.g. Superior or District Court), what sort of coordination would you provide?
- j. What do you see as the defender's role in helping clients meet their court obligations (e.g. obtain treatment)?
- k. Describe your firm's general philosophy concerning situations when the client refuses or fails to follow the advice of the attorney.
- l. What experience does your firm have working with agencies that serve the needs of ex-offenders?

6. Effective management of cases and reporting is very important to the City. It is expected that attorneys will effectively manage their caseloads and that the firm will have the necessary systems in place to generate required reports and meet all of the reporting deadlines specified in the contract.

- a. Please describe the case management system your firm uses to manage its cases. Please include the software developer's name.
- b. Please attach examples of typical reports your firm uses in managing its cases (e.g. closed case reports, case allocation reports, year-end attorney case assignment reports).
- c. How do you monitor the caseload for your attorneys (i.e. if you have a particular standard for how many cases an attorney may handle in a year, how do you check to see if the number of cases assigned to the attorney is within the standard?)
- d. Please describe your technology infrastructure (e.g. ratio of computers to staff, etc.). Please include method of access to the Internet and speeds, and your Internet Service.
- f. Please describe your attorneys access to electronic legal research tools and databases (e.g. Lexis/Nexis, West Law, other)?

7. Overall Philosophy

- a. Describe your firm's general philosophy in providing indigent defense services.
- b. A defense attorney's first obligation is to his/her client. However, there is also a need for the criminal justice agencies (court, prosecution, police, and defense) to work together in order to make changes to the criminal justice system. What do you see as the defender's role in improving the criminal justice system, identifying efficiencies, etc.?

8. Other

- a. Please describe the standard your firm uses to determine if there is a conflict that would prevent your firm from providing defense services to a client. What steps do you take to

determine if a conflict exists? Who performs the conflicts check? Can the conflicts check be completed within three (3) working days upon receiving the case? What type of computer system does your firm use to check for conflicts?

b. Where is your firm's office located? If it is not in downtown Auburn or near the City of Auburn, do you plan on establishing an office in Auburn? If not, how will this affect your ability to provide services?

Proposed Services and Cost

Please provide your estimated cost to provide defense services to the City of Auburn based on the required scope of services as described in this RFP. Costs should be for a full year of service and should reflect 2013 rates.

As part of the cost proposal, use a spreadsheet that includes the following:

1. Personnel Costs
2. Operations and Maintenance (O&M) Costs (rent, supplies, phones, computers, etc.)
3. Overhead – please describe the methodology used to allocate the percentage share of overhead (e.g. it's based on percentage share of employees, dollars, cases, etc.). Please identify what charges are included in the overhead.
4. Other (please specify)

References

1. Please provide three (3) references (with name, title, address, and phone number) who can speak to your firm's ability to provide defense services to indigent persons charged with misdemeanor offenses. Include a brief statement describing the relationship between your firm and the reference.
2. The City may go beyond these references and seek additional references from people who have experience with your firm.
3. Please list all of the courts where your firm has provided criminal defense services in the last five (5) years.

REQUIRED PROPOSAL ATTACHMENTS

1. Insurance: Contractors with the City of Auburn must carry the coverages and limits of liability covered on Page 9 under **INSURANCE REQUIREMENTS**. Certificates of insurance must be enclosed in the applicant's proposal.

2. A copy of the declaration of compliance with the Indigent Defense Standards filed with the court for each attorney who will be working under this Contract.

Appendix A - Public Defense Case Credits Assigned by Year

Shows the number of Auburn misdemeanor defense case credits assigned each year and the number of cases sent to a Conflict Attorney.

Year	# Credits Assigned	# Cases to conflict	(Assigned Counsel) Total
2009	2526	43	2569
2010	2236	95	2331
2011	1880	130	2010
2012	1609	47	1656

Appendix B – Primary Defender Closed Case Credits by Charge

Shows the distribution of the Primary Public Defender closed case credits by charge for September 2012 – January 2013.

	September 2012	October 2012	November 2012	December 2012	January 2013
	#	#	#	#	#
Assault	18	37	33	23	20
Disorderly Conduct	3	5	2	1	0
DWLS III	12	5	3	4	4
DWLS II	1	0	3	4	1
DWLS I	2	1	1	2	1
NCO violation	11	8	19	4	3
Theft	27	32	27	36	32
DUI	11	16	9	7	7
Criminal Trespass	26	25	22	18	14
Malicious Mischief	7	10	4	7	6
Obstructing Public Officer	13	15	5	11	4
Harassment	1	4	4	1	0
Reckless Driving	8	8	2	5	2
Hit and Run	5	6	6	2	2
Unlawful Use of Weapon	2	0	1	1	0
Vehicle Prowling	1	1	1	3	2
False Reporting	2	0	0	0	4
Minor in Possession of alcohol	5	1	1	0	2
Possession of marijuana	4	4	1	2	1
Possession of Drug Paraphernalia	10	6	3	7	2
Other	39	48	45	29	7

APPENDIX C – Case Weighting

Allowing Minor to Frequent Bar	1/3
Allow Unauthorized Person to Drive	1/3
Altered License	1/3
Assault:	
Domestic Violence	1
Non Domestic Violence	1
With Sexual Intent	2
Animal Cruelty	1
Attempted Assault	2/3
Attempted Forgery	2/3
Attempted Theft	2/3
Canceled Plates/Registration	1/3
Complicity	2/3
Commercial License Needed	1/3
Concealed Weapon	2/3
Conspiracy	2/3
Counterfeiting Trademark	2/3
Criminal Attempt	2/3
Criminal Trespass	1/3
Custodial Interference	1
Cyber Stalking	1
Dangerous Animal at Large	2/3
Discharge of Firearm	2/3
Disorderly Conduct	1/3
Display of Weapon	2/3
DUI	1
DWLS 1	1/2
DWLS 2	1/2
DWLS 3	1/3
Criminal Assistance	1/3
Escape	2/3
Failure to Transfer Title	1/3
Failure to Disperse	1/3
Failure to Obey	1/2
Failure to Obey Flagman	1/2
Failure to Obtain Vehicle License	1/3
Failure to Stop	1/2
Failure to Secure Load	1
Failure to Surrender License	1/3
False Identification	1/2
False Insurance Card	1/2

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False Information	1/2
False Reporting	1/2
False Statement	1/2
Fraud Dr. License:	1/2
Furnishing Liquor to Minor	1/2
Harm to a Police Dog	1
Harassment	1
Telephone Harassment	1
Domestic Violence Harassment	1
Hit and Run Attended	1
Hit and Run Unattended	1/2
Illegal Fireworks	1/3
Illegal Use of Dealer Plate	1/3
Immoral Conduct with a Minor	1
Indecent Exposure	1
Inhale Toxic Fumes	1
Interfering with Reporting to 911	2/3
Invalid Trip Permit	1/3
Loiter for Prostitution	1/2
Malicious Mischief Domestic Violence	1
Malicious Mischief Non-Domestic Violence	2/3
Minor Frequenting a Tavern	1/2
Minor Intoxicated in Public	1/2
Minor in Possession/Consumption	1/2
Neglect of a Child	1
Negligent Driving 1	1
No Valid Operator's License	1/3
Obstructing	2/3
Operating Vehicle without Cert. of Ownership	1/3
Operating Vehicle without Ignition Interlock	1/2
Patronizing a Prostitute	1/2
Physical Control	1
Possession of Drug Paraphernalia	1/2
Possession of Marijuana	1/2
Possession of Stolen Property	2/3
Possession/Making Burglary Tools	2/3
Possession of Another's ID	1/2
Possession of Legend	2/3
Prostitution	1/2
Provoking Assault	2/3
Public Disturbance	1/3
Reckless Driving	2/3
Reckless Burning	2/3
Reckless Endangerment	2/3

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Refuse to Cooperate	1/2
Crimes Requiring Registration as Sex Offender	2
Resisting Arrest	2/3
Selling Liquor to Minor	1/2
Stalking	1
Tampering with Property of Others	1/2
Tampering with a Witness	1
Theft 3	2/3
Theft of Rental Property	2/3
Unlawful Issuance of Bank Check	2/3
Unlawful Bus Conduct	1/2
Unlawful Camping	1/3
Unlawful Racing	2/3
Vehicle Prowl	2/3
Vehicle Trespass	2/3
Violation of Anti-Harassment Order	2/3
Violation of No Contact Order	2/3
Violation of Instruction Permit	1/3
Violation of Occupancy License	1/3
Violation of Protection Order	2/3
Violation of Restraining Order	2/3
Violation of S.O.A.P. Order	1/2
Weapons Capable of Harm	2/3

	Monday	Tuesday	Wednesday	Thursday	Friday
	1	2	3	4	5
AU1	8:45 Jury Trial 10:00 In-Custody 1st App	8:45 Jury Trial 10:00 In-Custody 1st App	8:45 In-Custody 2nd App 9:00 NCO Recall 10:00 In-Custody 1st App	8:45 Arraignments 10:00 In-Custody 1st App 1:30 Review	8:45 In-Custody 2nd App 10:00 In-Custody 1st App 1:30 Bench Warrant
AU2	8:45 Jury Trial	8:45 Jury Trial		8:45 Mitigations 1:30 Review	8:45 Contested 1:30 Contested
	Monday	Tuesday	Wednesday	Thursday	Friday
	8	9	10	11	12
AU1	8:45 Motions 10:00 In-Custody 1st App 1:30 Non Jury Trial	8:45 Pre Trial 10:00 In-Custody 1st App 1:30 Pre Trial	8:45 In-Custody 2nd App 9:00 NCO Recall 10:00 In-Custody 1st App	8:45 Arraignments 10:00 In-Custody 1st App 1:30 Sentencing	8:45 In-Custody 2nd App 10:00 In-Custody 1st App 1:30 Bench Warrant
AU2				8:45 Mitigations 1:30 Reviews	8:45 Reviews 1:30 Reviews
	Monday	Tuesday	Wednesday	Thursday	Friday
	15	16	17	18	19
AU1	8:45 Motions 10:00 In-Custody 1st App 1:30 Non Jury Trial	8:45 Pre Trial 10:00 In-Custody 1st App 1:30 Pre Trial	8:45 In-Custody 2nd App 9:00 NCO Recall 10:00 In-Custody 1st App	8:45 Arraignments 10:00 In-Custody 1st App 1:30 JUDICIAL RETREAT May Change	8:45 In-Custody 2nd App 10:00 In-Custody 1st App 1:30 JUDICIAL RETREAT May Change
AU2				JUDICIAL RETREAT	JUDICIAL RETREAT
	Monday	Tuesday	Wednesday	Thursday	Friday
	22	23	24	25	26
AU1	8:45 Motions 10:00 In-Custody 1st App 1:30 Non Jury Trial	8:45 Pre Trial 10:00 In-Custody 1st App 1:30 Pre Trial	8:45 In-Custody 2nd App 9:00 NCO Recall 10:00 In-Custody 1st App	8:45 Arraignments 10:00 In-Custody 1st App 1:30 Review	8:45 In-Custody 2nd App 10:00 In-Custody 1st App 1:30 Bench Warrant
AU2				8:45 Mitigations	8:45 Jury Call
	Monday	Tuesday	Wednesday	Thursday	Friday
	29	30			
AU1	8:45 Motions 10:00 In-Custody 1st App 1:30 Non Jury Trial	8:45 Pre Trial 10:00 In-Custody 1st App 1:30 Pre Trial			
AU2					